

30-2-11 Action for consortium due to personal injury.

- (1) For purposes of this section:
 - (a) "injury" or "injured" means a significant permanent injury to a person that substantially changes that person's lifestyle and includes the following:
 - (i) a partial or complete paralysis of one or more of the extremities;
 - (ii) significant disfigurement; or
 - (iii) incapability of the person of performing the types of jobs the person performed before the injury; and
 - (b) "spouse" means the legal relationship:
 - (i) established between a man and a woman as recognized by the laws of this state; and
 - (ii) existing at the time of the person's injury.
- (2) The spouse of a person injured by a third party on or after May 4, 1997, may maintain an action against the third party to recover for loss of consortium.
- (3) A claim for loss of consortium begins on the date of injury to the spouse. The statute of limitations applicable to the injured person shall also apply to the spouse's claim of loss of consortium.
- (4) A claim for the spouse's loss of consortium shall be:
 - (a) made at the time the claim of the injured person is made and joinder of actions shall be compulsory; and
 - (b) subject to the same defenses, limitations, immunities, and provisions applicable to the claims of the injured person.
- (5) The spouse's action for loss of consortium:
 - (a) shall be derivative from the cause of action existing in behalf of the injured person; and
 - (b) may not exist in cases where the injured person would not have a cause of action.
- (6) Fault of the spouse of the injured person, as well as fault of the injured person, shall be compared with the fault of all other parties, pursuant to Sections 78B-5-817 through 78B-5-823, for purposes of reducing or barring any recovery by the spouse for loss of consortium.
- (7) Damages awarded for loss of consortium, when combined with any award to the injured person for general damages, may not exceed any applicable statutory limit on noneconomic damages, including Section 78B-3-410.
- (8) Damages awarded for loss of consortium which a governmental entity is required to pay, when combined with any award to the injured person which a governmental entity is required to pay, may not exceed the liability limit for one person in any one occurrence under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session